

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Frank W. Clifton, Jr.
Interim Town Manager

Carin Z. Faulkner, MPA
Town Clerk

NORTH TOPSAIL BEACH PLANNING BOARD MEETING FEBRUARY 12, 2009 6:30 P.M.

PRESENT: SUE TUMAN-CHAIRMAN, PAUL DORAZIO-VICE CHAIRMAN, MIKE YAWN, GARY ROWLAND, CAROL EVANS, GERALD RIGGLEMAN, JUNE DOHERTY-ALTERNATE, DEBORAH LANCI-ALTERNATE, DEBORAH HILL-PLANNING & ZONING ADMINISTRATOR, RYAN McALISTER-PLANNER, RANDALL MOUDY- BUILDING INSPECTOR, TERRIE WOODLE-PERMIT TECH/RECORDING SECRETARY

NOT PRESENT: GUNNAR MATTHEWS

- 1. CALL TO ORDER:** Mrs. Tuman called the meeting to order at 6:30 p.m. in the North Topsail Beach meeting room.
- 2. ADOPTION OF AGENDA:** Mr. Dorazio suggested adding Sec. 6-130 of the Ordinance, Building Operations under New Business (C). **Mr. Rowland made a motion to adopt the Agenda as amended. Mr. Yawn seconded the motion, motion passed unanimously.**
- 3. APPROVAL OF MINUTES:** **Mr. Rowland made a motion to approve the minutes. Mr. Yawn seconded the motion, motion passed unanimously.**
- 4. PUBLIC COMMENT:** No one from the Public came forward to speak.
- 5. OLD BUSINESS:**
 - A. Preliminary plat for major subdivision: Jim Day:** Mr. McAlister read his staff report as follows: Jim Day is requesting preliminary approval of a major subdivision. The property is located northwest of 2nd, 3rd, 4th, 5th, and 6th Avenue in the Stump Sound Township. Zoned R-20 and Con-D, the proposed 4 lots total 10.15 acres and are identified by tax map # 811-89.
Access: lots will be accessed via existing 2nd, 3rd, 4th, 5th and 6th Avenue. NCDOT has approved the plans.
CAMA: property is within the Outstanding Resource Waters, (ORW). The amount of impervious surface shall not exceed 25% of the lot area within 575 feet or Normal High Water (Estuarine Shoreline-ORW Area of Environmental Concern).
CAMA Land Use Plan: The Land Use Plan classifies this property as “developed.” The proposal meets the requirements of the Land Use Plan.
Fire: The Fire Marshall has reviewed and approved the preliminary plat.
Flood: These lots are eligible for federal flood insurance as they are located outside the Coastal Barrier Resource System area.

Utilities: This plat meets the ONWASA requirements and is recommended for approval. There is a ten (10) inch water line on Island Dr., a two (2) inch water line on 2nd, 3rd, 4th, 5th and 6th Avenue.

Lots are to be served by Utilities, Inc. Plans are being forwarded to Utilities, Inc. in Charlotte for review and approval.

If individual systems are used, lots shall meet any applicable Onslow County Health Department requirements. Septic systems require a 100 foot setback from mean high water line. There are reduced setbacks for pretreatment systems.

The square footage was questioned in the R-20 Zoning in the uplands of each of the four lots at the January's Planning Board meeting; this has been revised and is on the bottom of the preliminary plat.

RECOMMENDATION: That the Planning Board grants preliminary approval for the Jim Day Subdivision. Upon approval of the preliminary plat by the Planning Board, the subdivider may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this ordinance. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this ordinance or guaranteed their installation as provided herein. Final plat submission and review will be in accordance with Sec. 7-257

Mrs. Evans questioned if it was mentioned at January's Planning Board meeting that the owner would not develop the property without sewer. Mr. David Weston (Surveyor) stated yes and the Planning Board's approval is contingent upon sewer taps being available.

Mr. Yawn asked if the Ordinance 7-267.2 Recreation and Open Space is a requirement in this situation. 7-267.2 reads: Every person or corporation who subdivides land for residential purposes shall be required to dedicate a portion of such land, as set forth in this ordinance for the purposes of park, recreation, and open space sites to serve the residents of the subdivision. He stated it should be easy to donate some of the open space in the back. Mr. Weston stated he didn't think it would be an issue.

Mr. Yawn stated it has been discussed that in order to run the sewer lines from the Avenues to the actual property was going to require extension of the sewer lines. The final plat would then include the sewer lines on it. He asked if it would be appropriate to have bonding required for that. Mr. McAlister stated he can bond for any parts of the subdivision; they would be bonded at 125% if he wanted to install the lines and once the final plat comes back they will be installed and will be suited to the Planning Boards approval. Mr. Yawn asked if he actually has to install the sewer lines. Mr. McAlister stated either they are installed or bonded.

Mr. Rowland asked how the Planning Board can approve a subdivision with a lot of only 8700 sq. ft. when R-20 requires 20,000 sq. ft. Ms. Hill stated the zoning is R-20 and the lot is over 20,000 sq. ft., it goes to the definition of Lot and Onslow County allows for the Con-D to be taken into consideration for multiple zoned parcels as does Surf City.

Mr. Yawn made a motion to approve the preliminary site plan with two conditions; when the final plat is presented it is to show the donated land and have the sewer/water lines and shared driveway at the end of Fourth Ave. documented. Mrs. Evans seconded the motion, motion passed 6-1 with Mr. Rowland voting against.

6. NEW BUSINESS:

- A. Vendors:** Ms Hill read her staff report as follows: At the Board of Aldermen meeting on January 6, 2009, Frank Clifton presented a request by Shawn Cook of Pleasure Island Rentals to rent beach equipment. He would like to put his equipment storage boxes in front of three locations from May 1st through September 30th and has received permission from St. Regis. The storage units will be beyond the property line which is prohibited by North Topsail Beach Town Code Article I, Sec. 4-1. Selling Goods on Public Property.

Frank Clifton addressed the issue of vendors again at the Board of Aldermen meeting February 5th.

Surf City does not allow vendors as the Town elects not to support competition of established commercial businesses. The Town of Emerald Isle also does not allow vendors for the same reason; however, an exemption is made for local fishermen, shrimpers and farmers selling their own catch (seafood) or grown produce. Town of Carolina Beach allows vendors affiliated with existing established business on public and private property and approved by Town Council.

Privilege licenses have been issued without review by the Zoning Administrator and there is no requirement to do so. Although by Town Code Sec. 4-19 privilege licenses are to be issued by the Town Clerk, they have been issued by the Permit Specialist.

Considerations:

- 1) Zoning
- 2) Public, private property
- 3) Resident, not-resident
- 4) Affiliation with existing business
- 5) Compliance/conflict with existing local, state regulations

The following are some of the existing vendors with privilege license (complete list to be provided under separate cover at meeting)

- 1) Shrimp Lady in N.C. 210 right of way.
- 2) Hot Dog vendor on private property.
- 3) Vegetable stand on private property.

The following are recent vendor requests and inquiries:

- 1) Ice vending machine request made by Coastal Ice Houses LLC, has not located a location.
- 2) Beach equipment rental by Shawn Cook.
- 3) Kayak rental by Frank Rochelle in N.C. 210 right of way and managed by NC Wildlife Resources Commission. NCWRC West Onslow Beach boat ramp provides access for small boat/canoes. Eric Kristopherson, Division Chief of Engineering Services/NCWRC will not allow, as it is outside the use of the facility, i.e., launch and recovery of small boats and canoes.

RECOMMENDATIONS:

- 1) That the Planning Board determine whether or not an amendment to Town Code is appropriate to allow for vendors and under what criteria.
- 2) That the Planning Board holds a public hearing at their next regularly scheduled meeting to solicit public input regarding any amendments, if proposed.
- 3) That after making a determination and conducting a public hearing, the Planning Board makes a recommendation to the Board of Aldermen regarding proposed amendments.

Ms. Hill stated the first consideration is whether the general location of the vending activity should be restricted and if so how. Cities typically pick the location of street markets using either zoning restrictions or permitting standards.

Mr. Dorazio stated that the other Towns don't allow it because they have commercial, where North Topsail Beach doesn't have any of that in the Town.

Gary Williams came forward to speak; he stated he and his wife are full time residents on North Topsail Beach. Last year they came up to the Town and purchased a privilege license for selling Italian ice on the beach and operated on the beach last summer. It was very successful; everyone absolutely loved it and wanted to know why they hadn't done this before. They have now gone into a huge expenditure with equipment and carts to serve Italian ice. Mr. Williams showed the Planning Board members a picture of their cart. He stated that the Topsail Advertiser wrote an article on them and how well it has been received by the beach goers. They have talked to another local City and talked to them about his business and they are considering letting them do it there also.

Mr. Rowland made a motion to review for the purposes of permitting transient merchant and itinerant vendor licenses and recommends Town Staff bring recommendations to the Planning Board for discussion no later than the next Planning Board meeting. Mr. Dorazio seconded the motion.

Ms. Hill asked the Planning Board for clarification of their direction to Staff. She asked if they want the Ordinance to make a distinction between public and private property in the zoning whether it is residential or commercial. Planning Board members stated yes. She stated she would contact the US Army Corps of Engineers, Division of Coastal Management and any other State or Federal agencies that may have regulations that may restrict or prohibit activities in certain areas.

Mrs. Tuman suggested just covering privilege licenses for selling on the beach first.

Mr. Yawn suggested amending Mr. Rowland's motion. Mr. Yawn made a motion that Town Staff draft Ordinance changes for the purpose of itinerant vendors and peddlers on the beach and hold a Public Hearing on that topic at the Planning Board's regular March meeting. Mr. Rowland seconded the motion, motion passed unanimously.

B. Flood Damage Prevention Ordinance: Ms. Hill read her staff report as follows:

Effective September 7, 2000, the Town modified the Flood Damage Prevention Ordinance with the following new construction requirements:

1. All construction shall meet V-Zone specifications and standards, in accordance with CFR-44, Section 60.3 (Code of Federal Regulations). This requirement applies throughout the Town limits, regardless of A-Zone or V-Zone designation.
2. The Town has established a 2' freeboard requirement, which establishes the lowest horizontal structural member and /or piece of equipment at least 2' above base flood elevation. (service equipment such as electrical meters bases and HVAC equipment are not exempt from this requirement)
3. All submitted structural plans shall be reviewed and approved by a NC Licensed Professional Engineer.

4. All Elevation Certificates, C-Zone Certifications, documents, letters and any other data submitted from Licensed Professional Engineer shall bear an original seal, current date and signature. (Must be address specific)
5. All construction below the base flood elevation shall be designed to break-away wall specifications, and when located within an A-Zone, flood vents shall be included.
6. All propane tanks shall be anchored to resist flotation.
7. Concrete driveways are not permitted in the Town Limits. (Exception, porous/impervious concrete with special permit)
8. All homes, including Manufactured homes, are to be elevated on wood pile foundations. Designed by a licensed NC professional Engineer and pile tip depth set by Design Engineer, based on wind & embedment calculations.

On September 1, 2005, the Board of Aldermen conducted a public hearing on the Flood Damage Prevention Ordinance. Alderman Godwin moved, seconded by Alderman Smith to Adopt the New Flood Damage Prevention Ordinance by November 3, 2005. The motion passed four to one with Alderman Duane voting nay.

Recently, an owner and her engineer seeking to relocate a single family residence questioned Staff's enforcement of V zone requirements in the AE flood zone. Although the text in the 2005 FDPO is not concise, Staff has relied on guidance from NFIP.

Frank Clifton addressed the issue of town-wide V-zone requirements at the Board of Aldermen meeting on February 5th.

RECOMMENDATION:

- 1) That the Planning Board determine whether or not an amendment to the Flood Damage Ordinance is appropriate.
- 2) That the Planning Board holds a public hearing at their next regularly scheduled meeting to solicit public input regarding any amendments, if proposed.
- 3) That after making a determination and conducting a public hearing, the Planning Board makes a recommendation to the Board of Aldermen regarding proposed amendments.

Ms. Hill stated that Staff has been directed by the Town Manager not to enforce V-Zone standards in AE Zone.

Ms. Hill asked that the Planning Board make a determination whether or not they want to enforce V Zone standards throughout the Town or hold V Zone property to V Zone standards and AE Zone property to AE Zone standards.

Mr. Moudy stated that in his opinion it should stay as it is now separate by definition of the local Town Ordinance. Mr. Yawn asked if that is the only thing that needs to be corrected in order to enforce V Zone standards across the AE Zone. Mr. Moudy stated yes.

Mr. Yawn made a motion that the Planning Board communicate to the Board of Aldermen that they support a text change in the definition of the coastal high hazard area that will allow V Zone building standards to apply to AE Zone and any other modifications to the Towns flood ordinance that are required in order to apply V Zone standards to AE Zones in North Topsail Beach and also have Town Staff place it in the consent agenda for the next Board of Aldermen meeting and that they have a public hearing at their April meeting. Mrs. Evans seconded the motion, motion passed unanimously.

C. SEC. 6-130 BUILDING OPERATIONS: Mr. Moudy stated that there is not a good definition of building operations in the Town code. Instead of wondering what it is they can't do we need to start defining what it is that they can do. He stated if the Town ties in the definition of building operations to NC 160A-417 which is State Law that requires permitting to be pulled for any kind of work on buildings that will fix that problem.

Mr. Dorazio asked to be abstained from Sec. 6-130 Building Operations. Mr. Yawn made a motion to abstain Mr. Dorazio from Sec. 6-130 Building Operations. Mrs. Evans seconded the motion, motion passed unanimously.

Mr. Rowland made a motion to define building operations as defined in NC 160A-417 and recommends to the Board of Aldermen that they adopt the definition for building operations for Sec. 6-130 to read: Building operations- NC 160A-417 and then the erection, including the excavation, demolition, alteration or repair of any building on a residential or business district other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays and propose that the second portion of Sec. 6-130 be amended as follows: after the word weekdays it should read Saturday 9:00 a.m. to 5:00 p.m. and Sunday 10:00 a.m. to 5:00 p.m. non-compliance the first time will be a written warning, the second time \$100.00 fine, third time \$250.00, fourth time \$500.00. Mr. Yawn seconded the motion, motion passed unanimously.

7. PLANNING BOARD & STAFF DISCUSSION: Planning Board discussed their Monday meetings on the Ordinances. Mrs. Tuman reminded the Planning Board about Ms. Hill's training sessions starting Thursday February 19, 2009 on Zoning, March 19th will be on "making a decision", April 16th will be on Special and Conditional Use Permits, and May 21st will be on Variances.

8. PUBLIC COMMENT: No one from the Public came forward to speak.

9. ADJOURNMENT: Mr. Rigglesman made a motion to adjourn. Mrs. Evans seconded the motion, motion passed unanimously.

The Planning Board meeting adjourned at 8:50 p.m. February 12, 2009. Minutes prepared by Terrie Woodle- Permit tech/Recording Secretary.

Sue Tuman- Chairman

Date

Terrie Woodle
Permit Tech/Recording Secretary

Date _____

